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Letter dated 12 July 2005 from the Permanent Representative of Panama to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1540 (2004)

With reference to your note dated 7 March 2005 concerning resolution 1540 (2004) regarding the agenda item entitled "Non-proliferation of weapons of mass destruction", I have the honour to transmit herewith the report of the Government of the Republic of Panama concerning the steps it has taken or intends to take to implement the resolution (see annex).

(*Signed*) Ricardo Alberto **Arias**
Ambassador
Permanent Representative

05-44028 (E) 010805 010805

Annex to the letter dated 12 July 2005 from the Permanent Representative of Panama to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1540 (2004)

REPUBLIC OF PANAMA
REPORT CONCERNING WEAPONS OF MASS DESTRUCTION

The Panamanian State recognizes that the use of nuclear weapons poses an immense threat to international peace and security and its position has traditionally been that their use should be considered illegal. Although Panama does not manufacture nuclear, biological or chemical weapons, it has begun to review measures required to control such weapons.

The Republic of Panama has signed and ratified international instruments, is engaged in control and security initiatives and is preparing contingency plans to combat the scourge of the proliferation of weapons of mass destruction and their means of delivery. National Police officers have provided technical advice in their sphere of competence to facilitate these efforts.

Panama has reaffirmed its position by ratifying multilateral and international conventions and treaties concerning disarmament and the non-proliferation of weapons of mass destruction. These instruments include the following:

A. Nuclear, chemical, biological and other weapons

- Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and Under Water
- Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (Treaty of Tlatelolco)
- Amendment to the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (Treaty of Tlatelolco)
- Treaty on the Non-Proliferation of Nuclear Weapons (NPT)
- Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Seabed and the Ocean Floor and in the Subsoil Thereof
- Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction (United Nations General Assembly resolution 2826 [XXVI])
- Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction
- Comprehensive Nuclear-Test-Ban Treaty
- Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials

B. Terrorism

- Convention to Prevent and Punish the Acts of Terrorism Taking the Form of Crimes Against Persons and Related Extortion that are of International Significance
- Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents
- Convention on the Physical Protection of Nuclear Material
- Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation
- Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf
- Convention on the Marking of Plastic Explosives for the Purpose of Detection
- Convention on the Safety of United Nations and Associated Personnel
- International Convention for the Suppression of the Financing of Terrorism
- International Convention for the Suppression of Terrorist Bombings
- Other

C. Control of Chemicals and other Hazardous Substances

- Montreal Protocol on Substances that Deplete the Ozone Layer
- Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer (adopted by Decision II/2 on 29 June 1990 in London at the Second Meeting of the States Parties)
- Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer (adopted on 25 November 1992 in Copenhagen at the Fourth Meeting of the States Parties)
- Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer (adopted on 17 September 1997 in Montreal at the Ninth Meeting of the States Parties)
- Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer (adopted on 3 December 1999 in Beijing, China)
- Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal
- Amendment to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal
- Regional Agreement on the Transboundary Movement of Hazardous Wastes
- Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade
- Stockholm Convention on Persistent Organic Pollutants
- United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

Article 4 of the Political Constitution of Panama states that "[t]he Republic of Panama complies with the rules of international law". Accordingly, where domestic law does not complement provisions of international conventions, these provisions are binding in the Republic of Panama.

National Legislation

A. Political Constitution

1. Title III, Chapter 1, Article 17. Fundamental Guarantees

The Government of the Republic of Panama is established for the purpose of protecting the life, honour and property of its nationals wherever they may be and of foreigners under its jurisdiction, ensuring the effectiveness of individual and collective rights and duties; and observing and enforcing the Constitution and the law.

2. Title XII, Article 310. "Public Forces"

The Republic of Panama shall have no army. ... In order to protect the life, honour and property of those under the jurisdiction of the State wherever they may be and to prevent criminal acts, the Law shall organize the necessary police services, which shall have separate powers and career paths.

Article 312

Only the Government may possess weapons and agents of warfare. Their manufacture, importation and exportation shall require the prior permission of the Executive branch. The Law shall stipulate which weapons shall not be deemed to be weapons of warfare and shall regulate their importation, manufacture and use.

B. The Penal Code regulates the various types of criminal conduct, including:

Book II, Chapter VII (Offences against Public Security)
1. Chapter I. Fires, floods and other common crimes
2. Chapter II. Offences against means of transport and communications
3. Chapter III. Unlawful association
4. Chapter IV. Piracy
5. Chapter V. Offences against public health

The Panamanian State currently participates in bilateral initiatives such as the Control and Security Initiative (CSI), the Trans-shipment Country Export Control Initiative (TECI) and the Proliferation Security Initiative (PSI).

Container Security Initiative (CSI)

The first stage of the Container Security Initiative, known by its English acronym, CSI, calls for installing X-ray equipment to inspect containers, as well as other security measures, in the world's twenty largest ports. Panama, which will be involved in the second stage, will benefit because the initiative will enable it to exercise more effective control over the maritime sector.

Over 90 percent of the world's cargo moves by sea container, and the objective of the initiative is to prevent terrorists from using international trade to transport weapons of mass destruction. The Republic of Panama is studying the possibility of using the mechanism, which could be used to inspect containers before they are sealed and seized.

Proliferation Security Initiative (PSI)

On 12 May 2004 Panama and the Unites States of America signed an agreement on cooperation to interdict the proliferation by sea of weapons of mass destruction, their delivery systems, and related materials. Under the agreement, and subject to prior approval by the Government of Panama, Panamanian flagships may be boarded if they are suspected of transporting illicit cargoes of weapons of mass destruction, their delivery systems or related materials.

Trans-shipment Country Export Control Initiative (TECI)

The purpose of the initiative is to implement a system of export controls on dual-use materials. To this end, the Government of Panama has prepared a preliminary bill that sets out rules governing the management of and trade in dual-use materials and establishes a national council on secure trade and a technical committee to deal with security issues. The preliminary bill also establishes a control regime that would apply to the export, re-export, transit or trans-shipment of good through Panama.

This represents Panama's most significant contribution to efforts to control trade in strategic products and to combat the proliferation of weapons of mass destruction and their means of delivery, since responsibility in this area rests not only with the Government, but also with economic agents and other agents in the international trade chain. Moreover, the legal framework has been established for developing procedures governing controls, security and sanctions.

Lists have also been prepared of prohibited and controlled substances. These are managed by various authorities, including the Directorate General of Customs, the Judicial Technical Police, the Ministry of Health and the Ministry of Agricultural Development.

The Republic of Panama has also adopted the International Code for the Security of Ships and Port Facilities (ISPS Code), pursuant to the amendments to the International

Convention for the Safety of Life at Sea (SOLAS). The ISPS Code entered into force in Panama on 1 July 2004 and mechanisms have been implemented to strengthen national and, consequently, international, maritime security. The mechanisms include the establishment of the Port Protection Committee, new requirements for the issuance of shipping licences and the development of merchant marine vessel registration databases.

It is important to note that the Government of Panama, acting through the relevant authorities, has adopted appropriate measures to guarantee the expeditious and secure passage of ships and their cargo through the Panama Canal. The Panamanian authorities are developing a joint strategy for assessing and classifying each type of ship scheduled to transit the Canal that may pose a risk or threat, owing in particular to the cargo on board.

Measures have been adopted to prohibit Panamanian citizens or any persons or bodies in Panamanian territory from providing means, financial assets, economic resources or financial services, whether directly or indirectly, for the benefit of third parties which commit or intend to commit terrorist acts using nuclear, biological and/or chemical weapons, their delivery systems and related materials. Thus, the requisite permanent controls have been introduced to incorporate policies — such as "know your client" — that were designed to prevent money-laundering and the financing of terrorism.

The Republic of Panama is cognizant of the threat of terrorism and of the possibility that terrorist groups could acquire weapons of mass destruction and has strengthened the units responsible for counter-terrorism analysis and operations within its various State security entities.

The Government of Panama reiterates its commitment to continue strengthening and promoting multilateralism as the primary tool for international peace and security and sustainable development.

The Government also reiterates its commitment to continue strengthening and enhancing its support for the United Nations as the universal forum for the maintenance of international peace and security and the peaceful settlement of international disputes, in the cause of promoting peaceful coexistence among States.

Contingency plans

A number of inter-institutional contingency plans have been developed to deal with situations involving the use of weapons of mass destruction or terrorist acts. These include the following:

- Preliminary draft Executive Decree approving the national plan establishing inter-institutional responsibilities with respect to events involving chemical, biological and radioactive agents and hazardous materials

- Preliminary draft amendment to Resolution No. 75 of 28 October 1997 approving regulations governing preparations for, and the response to, radiological emergencies
- National Radiological Emergencies Plan.

Action by the National Police

The National Police, through its Information and Investigation Directorate, is preparing to establish an interdepartmental coordination unit for departments responsible for dealing with terrorist acts. Coordination efforts will focus not only on information and intelligence, but also on operational activities. Upon approval by the unit, information and intelligence will also be shared with international organizations combating terrorism and the proliferation of weapons of mass destruction and their means of delivery.

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Note verbale dated 20 July 2005 from the Permanent Mission of Kenya to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1540 (2004)

The Permanent Mission of the Republic of Kenya to the United Nations presents its compliments to the Security Council Committee established pursuant to resolution 1540 (2004), and has the honour to submit herewith Kenya's report on the implementation of Security Council resolution 1540 (2004) (see annex).

05-44016 (E) 010805

Annex to the note verbale dated 20 July 2005 from the Permanent Mission of Kenya to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1540 (2004)

United Nations Security Council resolution 1540 (2004): nuclear materials/weapons

Introduction:

Kenya has been a member state of IAEA since 1965. Since then, there has been many Technical cooperation Programmes between the Agency and Kenya, some of which culminated into the enactment of Radiation Protection Law in 1982 which seeks to control the development, acquisition, manufacture, possession, transport, transfer or the use of nuclear materials and by extension nuclear weapons. The National Council for Science and Technology has developed draft nuclear science and technology policy paper to promote the peaceful uses of radiation sources and nuclear materials. This paper is with stakeholders for review.

The Radiation Protection Act

Under the Radiation Protection Act, there are regulatory provisions for the licensing of all users and handlers of radioactive materials. A categorized list of Radioactive Materials, which include nuclear materials, is also kept in a register under the Act. Where there is inadequacy of regulations, the Act expressly authorizes the use of regulations developed by the IAEA.

Treaties and Conventions

Kenya is a signatory to the following treaties and conventions.

1. Nuclear Non Proliferation Treaty (NPT)
2. Comprehensive Nuclear Test Ban Treaty (CTBT)
3. Physical Protection of Nuclear Material
4. Pelindaba Treaty

However, Kenya is yet to sign and ratify the comprehensive safeguards agreements and additional protocols. Efforts to accede to these instruments are being given priority. Meanwhile, Kenya is party to the Code of Conduct on the safety and security of radioactive materials.

Radiation Protection Infrastructure

The RPA establishes a National Radiation Protection Board (RPB) with the following functions.

(i) Advice the Minister on all matters relating to radiation safety including but not limited to; safe transport of radioactive materials, management and disposal of radioactive waste, safe storage of radioactive materials, naturally occurring radioactive materials and non-ionizing radiation;
(ii) Implement the provisions of this Act and the regulations made there under;
(iii) Grant or refuse to grant or extend licenses issued under this Act and to impose any conditions on a license so granted;
(iv) Enhance co-operation and co-ordination between the Government, and other stakeholders involved in the implementation of the provisions of this Act;
(v) Monitor independently or in co-operation with any person, such surveys, investigations and services as the Board may consider necessary for its tasks;
(vi) Ensure that proper ethics and codes of practice are maintained in activities involving use of radiation sources;
(vii) Ensure the maintenance of standards under this Act for purposes of safety in the use of radiation sources, consumer goods and natural environment; and
(viii) Provide guidelines and support such measures as may be necessary for the protection of the public in a radiological or nuclear emergency.

The Act also establishes the office of the Chief Radiation Protection Officer with executive powers to create an appropriate infrastructure for purposes of Radiation Safety and security of Radioactive Materials and nuclear material.

There exists an active Radiation Protection Inspectorate with a personnel establishment of 50 which has very close links with the National Council for Science and Technology and IAEA.

The National Council for Science and Technology (NCST) promotes and coordinates the use of nuclear techniques throughout the country. There are over fifty (50) such projects (National, Regional, AFRA, Interregional) that are under the supervision of both the NCST and RPB, with the IAEA-Technical Coperation programme. One such project is enhancing nuclear security in member states.

These projects are as a result of a Country Programme Framework (CPF) 2005 – 2010 recently signed by the Government of Kenya and the IAEA.

Education.

The University of Nairobi, runs an Institute of Nuclear Science, where professional experts are trained in radiation safety and security of Radioactive Materials.

NCST in consultation with stakeholders is also in the process of forming a society for the promotion of science and technology.

The Eastern Africa Association for Radiation Protection (EAARP) has also been mandated to train users of Radioactive Materials in radiation safety.

The RPB also conducts awareness programmes on the need for radiation safety and security of radiation sources.

Challenges

(i) Illicit trafficking of nuclear materials and equipment.

In the recent past Kenya has caught up with individuals purporting to sell nuclear material for non-peaceful uses. Some of the material is under safe custody for further investigations.

Kenya boarders many countries and the Indian Ocean, with many border points. The RPB requires assistance in terms of equipment so as to conduct an effect surveillance programme across the country.

(ii) Regional Cooperation

Kenya continues to endeavour to achieve maximum cooperation from its neigbours with regard to radiation safety, security of radiation sources, etc.

There exists the EAARP which is open for membership in Uganda, Tanzania and Kenya.

There are also plans to convene regular tripartite meetings of the Chair-persons and Chief Executives, in RP matters, from the three member states. Assistance to effect decisions taken at the meetings will be highly appreciated.